

Order

Michigan Supreme Court
Lansing, Michigan

January 27, 2009

Marilyn Kelly,
Chief Justice

134799(102)

Michael F. Cavanagh
Elizabeth A. Weaver
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway,
Justices

DANIEL A. YOUNG, as Personal
Representative of the Estate of PATRICIA
J. YOUNG,
Plaintiff-Appellant/
Cross-Appellee,

v

SC: 134799
COA: 266261
Oakland CC: 2003-049093-NH

PARTHA SHANKER NANDI, M.D.,
SANTE BOLOGNA, M.D., and CENTER
FOR DIGESTIVE HEALTH, a/k/a TROY
GASTROENTEROLOGY, P.C.,
Defendants-Appellees/
Cross-Appellants,

and

WILLIAM BEAUMONT HOSPITAL-TROY,
Defendant.

On order of the Court, the motion for clarification of this Court's October 3, 2008 order is considered, and it is GRANTED. For the reasons stated in that order, the Court of Appeals erred in affirming the trial court's denial of the defendants' request for a hearing concerning attorney fees in the plaintiff's favor as case evaluation sanctions under MCR 2.403(O)(6)(b). "Under the facts of this case, such a hearing was necessary." In our October 3, 2008 order, we remanded this case to the Oakland Circuit Court "for a hearing on the subject of a reasonable attorney fee, consistent with *Smith v Khouri*, 481 Mich 519 (2008)." We clarify, however, that such a hearing shall occur only if the Oakland Circuit Court first determines, on remand, that the plaintiff is still entitled to case evaluation sanctions in light of the rulings made by the Court of Appeals.

We do not retain jurisdiction.

CAVANAGH and WEAVER, JJ., would grant reconsideration and, on reconsideration, would grant leave to appeal.



d0120

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

January 27, 2009

Corbin R. Davis

Clerk